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Northern Illinois Telecom, Inc. and International Brotherhood of Electrical Workers, Local 134.
Case 13–CA–46394

June 3, 2011

DECISION AND ORDER

BY CHAIRMAN LIEBMAN AND MEMBERS PEARCE
AND HAYES

The Acting General Counsel seeks a default judgment in this case on the ground that the Respondent has failed to file an answer to the complaint. Upon a charge and amended charge filed by the Union on November 2 and December 29, 2010, respectively, the Acting General Counsel issued the complaint on January 12, 2011, against Northern Illinois Telecom, Inc. (the Respondent) alleging that it has violated Section 8(a)(3) and (1) of the Act. The Respondent failed to file an answer.

On March 23, 2011, the Acting General Counsel filed a Motion for Default Judgment with the Board. Thereafter, on March 24, 2011, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Default Judgment

Section 102.20 of the Board's Rules and Regulations provides that the allegations in a complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. In addition, the complaint affirmatively states that unless an answer was received by January 26, 2011, the Board may find, pursuant to a motion for default judgment, that the allegations in the complaint are true. Further, the undisputed allegations in the Acting General Counsel's motion disclose that the Region, by letter dated February 23, 2011, notified the Respondent that unless an answer was received by March 2, 2011, a motion for default judgment would be filed.

In the absence of good cause being shown for the failure to file a timely answer, we grant the Acting General Counsel's Motion for Default Judgment.

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

At all material times, the Respondent, an Illinois corporation, with an office and place of business in Rolling Meadows, Illinois (the Respondent's facility), has been engaged in providing sales, installation, and service of voice and data systems. During the 12-month period preceding the issuance of the complaint, a representative period, the Respondent, in conducting its operations described above, purchased and received at its facility goods valued in excess of \$50,000 directly from points outside the State of Illinois. We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that International Brotherhood of Electrical Workers, Local 134, the Union, is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

At all material times Paul Coy, an owner of the Respondent, has been a supervisor of the Respondent within the meaning of Section 2(11) of the Act and an agent of the Respondent within the meaning of Section 2(13) of the Act.

The complaint alleges that the Respondent engaged in the following conduct:

1. On about May 4, 2010, the Respondent, by Paul Coy, threatened to take legal action against Michael Gielarowski.

2. On about June 14, 2010, the Respondent, by Paul Coy, interfered with Michael Gielarowski's employment opportunities by threatening the Union that it would take legal action against the Union's signatory contractors if they employed Michael Gielarowski.

3. On about August 31, 2010, the Respondent, by Paul Coy, interfered with Michael Gielarowski's employment relationship with Titan Electric by threatening to sue the company if it continued to employ Michael Gielarowski.

4. On about May 4, 2010, the Respondent, by Paul Coy, discharged its employee, Michael Gielarowski.

The Respondent engaged in the conduct described above because Michael Gielarowski assisted the Union and engaged in concerted activities, and to discourage employees from engaging in these activities.

CONCLUSIONS OF LAW

1. By the conduct described in paragraphs 1–3 above, the Respondent has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) and affecting commerce within the meaning of Section 2(6) and (7) of the Act.

2. By the conduct described in paragraph 4 above, the Respondent has been discriminating in regard to the hire or tenure or terms or conditions of employment of Michael Gielarowski, thereby discouraging membership in a labor organization in violation of Section 8(a)(3) and (1) and affecting commerce within the meaning of Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. Specifically, having found that the Respondent has violated Section 8(a)(3) and (1) by discharging employee Michael Gielarowski, we shall order the Respondent to offer Gielarowski full reinstatement to his former job or, if that job no longer exists, to a substantially equivalent position, without prejudice to his seniority or any other rights and privileges previously enjoyed, and to make him whole for any loss of earnings and other benefits suffered as a result of the discrimination against him. Backpay shall be computed in accordance with *F. W. Woolworth Co.*, 90 NLRB 289 (1950), with interest at the rate prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987), compounded daily as prescribed in *Kentucky River Medical Center*, 356 NLRB No. 8 (2010).

In addition, the Respondent shall also be required to remove from its files all references to the unlawful discharge of Michael Gielarowski, and to notify him in writing that this has been done and that the unlawful discharge will not be used against him in any way.

ORDER

The National Labor Relations Board orders that the Respondent, Northern Illinois Telecom, Inc., Rolling Meadows, Illinois, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Threatening to take legal action against employees because they assist a union and engage in concerted activities, and to discourage employees from engaging in these activities.

(b) Interfering with employees' employment opportunities by threatening International Brotherhood of Electrical Workers, Local 134 (the Union) that it would take legal action against union signatory contractors if they employed employees who assisted the Union and engaged in concerted activities.

(c) Interfering with employees' employment relationship with employers by threatening to sue a company if it continued to employ employees who assisted the Union and engaged in concerted activities.

(d) Discharging employees because they assist a union and engage in concerted activities, and to discourage employees from engaging in these activities.

(e) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Within 14 days from the date of this Order, offer Michael Gielarowski full reinstatement to his former job or, if that job no longer exists, to a substantially equivalent position, without prejudice to his seniority or any other rights or privileges previously enjoyed.

(b) Make Michael Gielarowski whole for any loss of earnings and other benefits suffered as a result of the discrimination against him, with interest, in the manner set forth in the remedy section of this decision.

(c) Within 14 days from the date of this Order, remove from its files any reference to the unlawful discharge of Michael Gielarowski, and within 3 days thereafter, notify him in writing that this has been done, and that the unlawful discharge will not be used against him in any way.

(d) Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order.

(e) Within 14 days after service by the Region, post at its facility in Rolling Meadows, Illinois, copies of the attached notice marked "Appendix."¹ Copies of the notice, on forms provided by the Regional Director for Region 13, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such

¹ If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

means.² Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since May 4, 2010.

(f) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. June 3, 2011

Wilma B. Liebman, Chairman

Mark Gaston Pearce, Member

Brian E. Hayes, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

APPENDIX

NOTICE TO EMPLOYEES

POSTED BY ORDER OF THE

NATIONAL LABOR RELATIONS BOARD

An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union

² For the reasons stated in his dissenting opinion in *J. Picini Flooring*, 356 NLRB No. 9 (2010), Member Hayes would not require electronic distribution of the notice.

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT threaten to take legal action against employees because they assist a union, and engage in concerted activities, and to discourage employees from engaging in these activities.

WE WILL NOT interfere with employees' employment opportunities by threatening International Brotherhood of Electrical Workers, Local 134, the Union, that we will take legal action against union signatory contractors if they employed employees who assisted the Union and engaged in concerted activities.

WE WILL NOT interfere with employees' employment relationship with employers by threatening to sue a company if it continued to employ employees who assisted the Union and engaged in concerted activities.

WE WILL NOT discharge employees because they assist the Union and engage in concerted activities, and to discourage employees from engaging in these activities.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL, within 14 days from the date of the Board's Order, offer Michael Gielarowski full reinstatement to his former job or, if that job no longer exists, to a substantially equivalent position, without prejudice to his seniority or any other rights or privileges previously enjoyed.

WE WILL make Michael Gielarowski whole for any loss of earnings and other benefits suffered as a result of the discrimination against him, with interest.

WE WILL, within 14 days of the date of the Board's Order, remove from our files any reference to the unlawful discharge of Michael Gielarowski, and WE WILL, within 3 days thereafter, notify him in writing that this has been done, and that the unlawful discharge will not be used against him in any way.

NORTHERN ILLINOIS TELECOM, INC.